

CONTRACT FOR PROFESSIONAL SERVICES

This Contract commences on <DATE>, by and between the State of Arizona, acting by and through the Arizona Department of Gaming, hereinafter “the Department,” and <NAME OF PROVIDER>, hereinafter “Contractor.”

It has been determined, pursuant to A.R.S. § 41-2536, that competition is not practicable on the basis that the Department seeks to contract with all qualified professionals, based on the criteria set forth in the attached Scope of Work, who can provide outpatient treatment services for problem and pathological gambling.

Now, therefore, it is agreed between the parties as follows:

1. General: Contractor agrees to perform professional services to the Department as set forth in the attached Scope of Work.
2. Rates and Expenses: The Department agrees to pay Contractor for services under this agreement pursuant to the attached Rate Sheet.
3. Confidentiality: The Contractor shall establish and maintain procedures and controls that are acceptable to the Department for the purpose of assuring that no information obtained and/or prepared by the Contractor in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees other than to employees of the Department as needed for the performance of its duties under the Contract. Persons requesting such information shall be referred to the Department.
4. Billing: Contractor shall prepare monthly billings for services rendered, which shall be submitted to Department on or before the fifteenth (15) day of each month following the month in which services were rendered and approved in accordance with the Office of Problem Gambling, Treatment Assistance Program Provider Manual. These billings will be paid within thirty (30) days following submission of an approved bill. Such billing shall be itemized to the satisfaction of the Department. Because the Department is bound by certain fiscal laws requiring that it only make payment for services rendered or costs incurred during the fiscal year in which the services were performed or costs incurred, Contractor is required to submit a billing for all services performed and not already paid for prior to the close of each fiscal year in which such services were performed. Arizona’s fiscal year begins on July 1 and ends on June 30 of each calendar year. Failure of Contractor to submit a bill for services performed will result in Contractor being unable to obtain payment for services incurred during that fiscal year.

5. Limitation: Contractor is retained by the Department only for the purposes and to the extent set forth in this agreement. Contractor shall not engage in matters that are adverse to the Department at the same time Contractor is providing services to the Department pursuant to this agreement, unless a written waiver is first obtained from the Department of Gaming.
6. Furnishing of Materials: Contractor shall furnish to Department of Gaming, copies of all material, reports, and correspondence prepared or received in performance hereunder.
7. Notice: When notice or correspondence is required to be sent to the Department, it shall be sent to the Department of Gaming, 202 East Earll Drive, Suite 200, Phoenix, Arizona 85012, Attention: Paul A. Bullis, Director.
8. Subcontracts: No subcontracts shall be made by Contractor with any other person for furnishing any work or services under this agreement without prior written approval of the Department of Gaming.
9. Other Contracts: The Department shall have the right to allow other contracts in connection with the work under this agreement, including obtaining identical and/or similar services from other providers at any time in conjunction with, or in replacement of, the Contractor's services.
10. Amendments: Any change in the Contract including the Scope of Work described herein, whether by modification or supplementation, must be accomplished by a formal Contract amendment signed and approved by and between the duly authorized representatives of the Contractor and the Department of Gaming. Any such amendment shall specify an effective date, any increases or decreases in the amount of the contractors' compensation, if applicable, and entitled as a "Contract Amendment", and signed by the parties identified in the preceding sentence. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification or supplementation to the Contract.
11. Compliance with Statutes: Contractor shall comply with all applicable federal and state statutes, executive orders and regulations, and other requirements.
12. Waiver: The failure of the Department at any time to require performance of any provision of this agreement shall in no way effect the right of the Department thereafter

to enforce such provision. Nor shall the waiver of any succeeding breach of such provision act as a waiver of the provision itself.

13. Termination: The Department and the Contractor shall have the right to terminate this agreement in whole or in part with or without cause and without penalty or further obligation thirty (30) days following written notice thereof. Contractor will ensure that all persons receiving services under this agreement will either continue to receive needed services without Department reimbursement or are referred to another appropriate provider in accordance with professional ethics and standards. This agreement may be terminated immediately by the Department if the safety of the public is compromised in any way. Contractor shall be paid the agreed compensation for services rendered through the date of termination of this agreement. Contractor shall deliver to the Department all materials, information, and data prepared or acquired by Contractor in performance of this Contract as of the date of termination. This Contract will otherwise terminate on December 31, 2008.
14. Cancellation for Conflict of Interest: Pursuant to A.R.S. § 38-511, if any person significantly involved in initiating, securing, drafting, or creating this agreement on behalf of the Department is, at any time, while the agreement or any extension of the agreement is in effect, an employee of the Contractor, in any capacity, or a consultant to Contract with respect to the subject matter of this agreement, the State of Arizona may cancel said agreement without penalty or further obligation. Cancellation shall be effective when written notice from the governor is received by the parties unless notice specifies a later time.
15. Disputes: Disputes arising under this Contract shall be resolved as provided by A.R.S. §§ 41-2615 and 12-1518.
16. Audit of Records: Pursuant to A.R.S. §§ 35-214 and 35-215, Contractor shall retain, and require all of its subcontractors to retain, for inspection and audit by the State of Arizona all books, accounts, reports, files, and other records relating to billing and performance of this Contract for a period of five years after its completion. Upon request by the Department, a legible copy of all such records shall be produced by the Contractor at the administrative offices of the State Auditor General. The original and all such records shall also be available and produced for inspection when audit is needed to verify the authenticity of a copy.

17. Entire Agreement: It is expressly agreed that this written agreement embodies the entire agreement of the parties in relation to the subject matter and that no understanding or agreements, verbal or otherwise, exist between the parties.
18. Applicable Law: This Contract shall be governed and interpreted by the laws of the State of Arizona, including the Arizona Procurement Code (A.R.S. §§ 41-2501 *et seq.*) and the administrative rules promulgated there under (A.A.C. R2-7-901 *et seq.*)
19. Independent Contractor: It is mutually agreed that Contractor shall be an independent Contractor in performance of this agreement and shall not be considered an employee of the State of Arizona by virtue of such agreement.
20. Term of Contract: The term of the Contract shall commence upon the date set forth in the first paragraph of this document and shall remain in effect until December 31, 2008, unless canceled, terminated, or extended by amendment as otherwise provided herein.
21. Contract Renewal: The Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The State shall have the right, at its sole option, to renew the Contract for up to three (3) additional periods of one (1) one-year or a portion thereof upon the Contractor's submission of a renewal application, which will be provided by the Office of Problem Gambling, verifying completion of the requirements found in Section IV.A of the Scope of Work. If the State exercises such rights, all terms, conditions, and provisions of the original Contract shall remain the same and apply during the renewal period unless otherwise amended as provided herein.
22. Insurance Requirements: Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees, or subcontractors.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors, and Contractor is free to purchase additional insurance.

 - 22.1 Minimum Scope and Limits of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below.
 - i. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury, and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor”.***
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

ii. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired, or borrowed by the Contractor”.***

iii. Workers’ Compensation and Employers’ Liability

Workers’ Compensation	Statutory Employers’ Liability
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.
- iv. Professional Liability (Errors and Omissions Liability)

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

 - a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
 - b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Contract.

22.2. Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

- i. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
- ii. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
- iii. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

22.3. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such

notice shall be sent directly to Tim Christensen, Office of Problem Gambling, 202 East Earll, Suite 200, Phoenix, AZ 85012, and shall be sent by certified mail, return receipt requested.

- 22.4. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A-VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- 22.5. Verification of Coverage: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Tim Christensen, Office of Problem Gambling, 202 East Earll, Suite 200, Phoenix, AZ 85012. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

- 22.6. Subcontractors: Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- 22.7. Approval: Any modification or variation from the *insurance requirements* in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.
- 22.8. Exceptions: In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply."

23. Indemnification Clause: Contractor shall indemnify, defend, save, and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation, and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees, or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona."
24. Availability of Funding: The Contractor is not assured of either the availability of funding, authorization to bill for a particular client, a payment in full of an amount billed, or referrals. Funds are not presently available for performance under this Contract beyond the current fiscal year. The State's obligation for performance of this Contract beyond this fiscal year is contingent upon the availability of funds from which payment for Contract purposes can be made. No legal liability on the part of the State for any payment may arise for performance under this Contract beyond the current fiscal year until funds are made available for performance of this Contract.
25. Non-Discrimination: The Contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, shall have equal access to employment opportunities, and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin, or disability.
26. Third Party Antitrust Violations: The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to the Contractor toward fulfillment of this Contract.

27. Licenses: All gambling treatment counselors providing treatment service under this Contract are required to maintain all relevant license(s) throughout the duration of this Contract. Contractor is required to notify the Office of Problem Gambling in writing of any disciplinary actions brought by the Board of Behavioral Health Examiners or changes in licensure status. Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor.
28. Compliance with Federal Immigration Laws and Regulations: Contractor shall comply with Executive Order 2005-30, which mandates as follows: 1) Contractor shall, and by signing this agreement does, warrant that it is in compliance with all federal immigration laws and regulations; 2) Contractor shall take affirmative action to ensure that all subcontractors of the Contractor execute similar warranties; 3) the breach of any such warranty shall be deemed a material breach of this Contract, subject to monetary penalties or other penalties up to and including termination of the Contract; and 4) the State retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the employer is in compliance with its warranties.
29. Health Insurance Portability and Accountability Act of 1996: The Contractor shall comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations and all applicable HIPAA requirements in the course of this Contract. Contractor guarantees that it will cooperate with the State in the course of performance of the Contract so that both parties will be in compliance with HIPAA. The Contractor will sign any documents that are reasonably necessary to keep the State and the Contractor in compliance with HIPAA.
30. Faith-Based Services: Contractor shall not engage in any inherently religious activities such as prayer, worship, religious instruction, or proselytizing in the course of providing treatment services under this Contract. In addition, Contractor shall not condition receipt of services under this Contract upon a treatment receiver's religion, religious beliefs, or participation in religious activities nor subject them to any coercion to participate in such religious activities. However, Contractor may provide faith-based treatment services under this Contract to those who voluntarily request it.

In witness thereof, the parties have made and executed this agreement the day and year first written above.

ARIZONA DEPARTMENT OF GAMING

NAME OF PROVIDER